

Barclays 30(b)(6) 10.12.07 10/12/2007 10:18:00 AM

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1  
2 THE FOLLOWING TEXT IS AN UNEDITED  
3 Waive Helms  
4  
5 (Exname Exhibit ^ for  
6 Deposition Exhibit ^ for  
7 65004  
8 for identification, ^, production numbers ^.)  
9  
10 Test test test test.  
11 Letter dated 6/29/07 Joshua  
12 Davey to Barclays Capital, Inc., no production  
13 numbers.)  
14  
15 (Deposition Exhibit ^ for  
16 65005  
17 for identification, Responses and Objections to  
18 Subpeona By Non-party Barclays Capital, Inc., no  
19 production numbers.)  
20 (Deposition Exhibit ^ for  
21 identification, ^, production numbers ^.)  
22 (Deposition Exhibit ^ for  
23 identification, ^, production numbers ^.)  
24 (Deposition Exhibit ^ for  
25 identification, ^, production numbers ^.)

1 so we're here pursuant to subpoenas that had  
2 been duly issued and a deposition duly noticed  
3 under the Rules of Civil Procedure.  
4 Unfortunately despite a number of  
5 inquiries from counsel about the deposition and  
6 about an earlier lack of production of documents  
7 by Barclays, we were not informed until after  
8 the close of business yesterday, October 11th  
9 that Barclays would not be producing a witness,  
10 Barclays has taken the position that they won't  
11 have a witness appear and apparently takes the  
12 position that neither a motion to quash nor  
13 formal objections or something else under Rule  
14  
15 45 is necessary. It is my view that Barclays  
16 has not complied with its obligations in  
17 response to the subpoena or taken appropriate  
18 steps to join issue they have with the subpoena  
19 under Rule 45. So we are here today for the  
20 purposes of the record I will identify myself  
21 and have opposing counsel identify himself then  
22 we will introduce some exhibits and close the  
23 record.  
24 I am Jack Cobb from Helms Mulliss  
25 Wicker representing the Bank of America

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1 (Deposition Exhibit ^ for  
2 production numbers.)  
3 (Deposition Exhibit 65008  
4 for identification, State of New York Banking  
5 Department: Foreign Branches listing, no  
6 production numbers.)  
7 (Deposition Exhibit 65009  
8 for identification, ^, production numbers ^.)  
9  
10  
11 U.S. Postal Service Tracking  
12 Confirmation, no production numbers.)  
13 MR. COBB: We are here today for  
14  
15 the deposition of Barclays Capital, Inc. and  
16 Barclays Bank PLC under Rule 30(b)(6) of the  
17 federal Rules of Civil Procedure. As I will be  
18 clear from the exhibits that I introduce in a  
19 few moments, the deposition was noticed back on  
20 September 20th of 2007 and subpoenas to those  
21 entities were sent on that date to counsel for  
22 Barclays and later were also sent to inside  
23 counsel at Barclays at the request of the  
24 outside counsel. The subpoenas were duly served  
25 and we have evidence of the proof of service and

1 defendants.  
2 MR. PALMER: Bob Palmer, Hennigan  
3 Bennett & Dorfman representing the Hancock  
4 plaintiffs.  
5 MR. COBB: Exhibits have already  
6 been marked. For the record, the first is  
7 Exhibit Number 65004. It is two document  
8 subpoenas that were issued on June 29th of 2007  
9 to Barclays Bank PLC and Barclays Capital, Inc.  
10 Those subpoenas are not the  
11 deposition subpoenas that have us here today,  
12 but they wanted to inclose those for purposes of  
13 making the record and the history here clear.  
14  
15 In response to those two subpoenas  
16 we received responses and objections from  
17 Barclays Capital, Inc. which had been introduced  
18 as Exhibit 65005, though no response or  
19 objection received from Barclays Bank PLC. The  
20 responses and objections from Barclays Capital  
21 indicated that Barclays Capital would be  
22 producing responsive documents. We were later  
23 told that Barclays Capital had no documents  
24 responsive to the document subpoena.  
25 The next step in the sequence here

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1 is Exhibit 65006, which is a cover letter dated  
 2 September 20, 2007, together with two deposition  
 3 subpoenas of that date, also dated September 20,  
 4 2007. One directed to Barclays Capital, Inc.,  
 5 one directed to Barclays Bank PLC, together with  
 6 a Notice of Deposition.

7 At the end of the exhibit, copies  
 8 of the witness fees that had been sent included  
 9 with the deposition to Barclays as set out in  
 10 Rule 45.

11 And then further, in addition, a  
 12 proof of service from, it is a form from the  
 13 U.S.A. Postal service indicating the subpoenas  
 14  
 15 had been delivered to the folks internally at  
 16 Barclays who we were told by their outside  
 17 counsel at Hughes Hubbard & Reed were authorized  
 18 to accept service. We have subsequently  
 19 obtained from the Postal Service, a screen shot  
 20 of the signature capture for the certified mail  
 21 indicating and demonstrating that the subpoenas  
 22 were served on Barclays as of October 1. That  
 23 document has been introduced as Exhibit 65009.  
 24 I have only got one copy of that. But have it  
 25 here for the record.

1 for service of process, at least as relates to

2 the SEC is also 200 Park Avenue in New York.

3 It is disappointing that counsel

4 has had to come today to not have a deposition

5 go forward which is duly noted and subpoenaed.

6 Particularly so for counsel from the Hancock

7 plaintiffs who has flown in from California for

8 this purpose. We reserve the right to seek

9 appropriate relief from the court. And with

10 that the record is closed.

6

1 So that it is clear that Barclays  
 2 had noticed through their counsel of today's  
 3 deposition as of September 20th and we served  
 4 with the subpoenas themselves on October 1st.

5 And then I want to introduce a  
 6 couple of other things in case there is ever a  
 7 quibble about service. The first is  
 8 Exhibit 65007 which is a print off from the  
 9 State of New York banking department showing a  
 10 list of a number of foreign banks over which the  
 11 department has supervisory authority and  
 12 indicating their official location here in the  
 13 United States and in in New York. And Barclays  
 14

15 Bank PLC is listed on the second page of the  
 16 seven page print out from the website from the  
 17 State of New York Banking Department and it  
 18 confirms that the address registered with that  
 19 department for Barclays Bank is 200 Park Avenue,  
 20 which is also the address where service was  
 21 effectuated.

22 Further, I have introduced as  
 23 Exhibit 65007 a Form F-N submitted to the U.S.A.  
 24 Securities and Exchange Commission by Barclays  
 25 Bank PLC where they indicate that their address